

Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

trespass. *Brookhaven v. Smith*, 98 App. Div. 212 N.Y. It has been held that proprietors of lands upon navigable waters are entitled to erect wharves and piers for their own and the public use in order to gain access to the navigable parts of the waters. *Steamboat Co. v. Visger*, 179 N. Y. 206. But there the land in question belonged to the state wherein the present case is distinguishable.

NUISANCE—PRESCRIPTION.—OVER v. DEHUE, 75 N. E. 664 (IND.).—In a suit to restrain defendant from operating his foundry, interfering with the enjoyment by plaintiff of his premises, the evidence showed that defendant had operated his foundry for twenty years and that plaintiff had occupied his property for over twenty years. *Held*, not sufficient to give defendant a prescriptive right to operate the foundry in manner complained of.

It is a well established principle that no lapse of time can confer a right to maintain a public nuisance. *Cooley on Torts*, page 730 (2nd Edition); *Inhabitants of Charlotte v. Iron Works*, 8 L. R. A. 828. And regarding a private nnisance the mere fact that the business constituting the nuisance was in operation a few years before a party erected a dwelling is no defense to an action in the absence of a claim of prescriptive right. *Fertilizer Co. v. Malone*, 73 Md. 268; *Mulligan v. Elias*, 12 Abb. Prac. (N. S.) 259. Bringing suits for damages for such use shows sufficiently the want of acquiescence by plaintiff. *Bunten v. Railway Co.*, 50 Mo. App. 414. Although defendant in present case operated his foundry for prescriptive period with knowledge of plaintiff and no complaint from latter, yet the peculiar manner of operating the foundry which caused the nuisance had not been in existence for the entire period. Therefore, the defendant had no right to maintain it, and decision was according to the weight of authority. *Campbell v. Seaman*, 63 N. Y. 568.

OFFICERS—TERM OF OFFICE—TERMINATION.—PROWELL v. STATE EX REL. HASTY ET AL.—39 So. 164 (ALA.).—*Held*, that the words, "until his successor is elected and qualified," as used in the Constitution and statutes relative to the terms of officers, are not intended to prolong the terms of office beyond such reasonable time after the election as will enable the newly elected officer to qualify, and after the expiration of such reasonable time, if the newly elected officer fails to qualify, the office becomes vacant.

At common law there was no rule which gave an individual elected or appointed to office the right to continue in office after the expiration of the term limited by law and until a successor was chosen and qualified. *People v. Tieman*, 30 Barb. 193. Nevertheless, an officer had the right to continue to occupy the office as a mere *locum tenens* and perform the duties incident to the office. *In matter of Woodworth*, 37 Cal. 614. Where a statute speaks of a "vacancy" in an office the word has no technical meaning. *People v. Osborne*, 7 Colo. 605. An office is not vacant when there is a *de facto* incumbent. *Harrison v. Simonds*, 44 Conn. 318. The length of time which will be allowed the officer to quailfy depends upon the statutes creating the office. *People v. Perkins*, 26 Pac. 245. Apparently the principal case is one of first impression, there being no decision on facts that are precisely similar.

PLEADING—PARTIES—MISNOMER—MODE OF OBJECTION.—MCINTOSH COUNTY COM'RS v. AIKEN, 51 S. E. (GA.) 585.—*Held*, that where, in a civil case, the party proceeded against is designated and described by a wrong name, the objection of misnomer should be taken by a plea in abatement, and not by a motion to dismiss.